

HB700 (MSC Testimony).pdf

Uploaded by: DiPietro, Jonathon

Position: FAV

BILL: HB 700 - Education - Crimes on School Grounds - Exemptions
SPONSOR: Delegate Sheila Ruth
POSITION: FAVORABLE

Friday, March 26, 2021

HB 700

Chair Pinsky, Vice Chair Kagan, and Members of the Education, Health, and Environmental Affairs Committee. We are writing in favor of HB 700.

The Maryland Student Coalition (“MSC”) strongly advocates for school safety, educational equity, and mental health. HB 700 will protect students with behavioral disabilities and those who do not have access to the mental health resources they should. It is important to recognize that many students that exhibit disruptive behavior are simply expressing themselves in the only manner they know of, or are capable of. It is essential that these students are not placed in the criminal justice pipeline for mental health episodes and things that they can not control. The MSC advocates for additional resources to assist those who live with behavioral and developmental disabilities, and feel that these incidents should and must be handled in school without police involvement.

As expressed by the Maryland Office of the Public Defender¹, §26-101 is commonly used to criminalize the behavior of youth with disabilities. HB 700 breaks the systemic link to prison that many disenfranchised students are unfortunately forced into. School discipline belongs in schools and not with law enforcement.

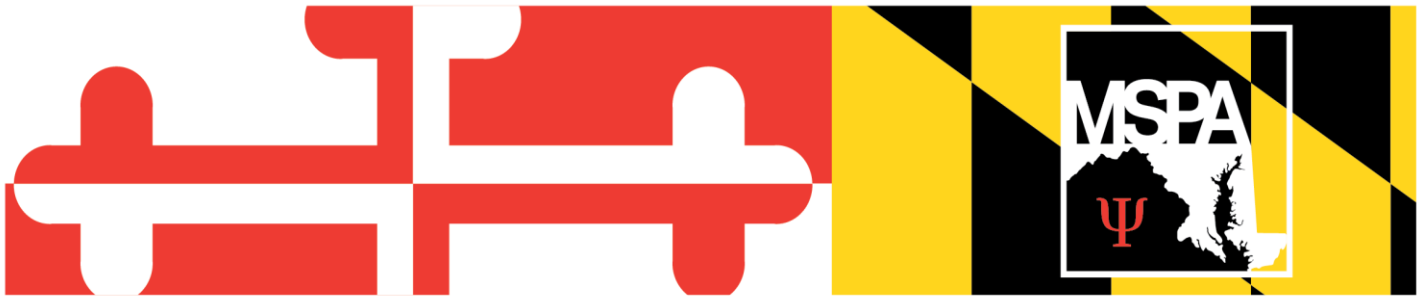
For the reasons stated above, we urge the committee to issue a favorable report on HB 700.

¹ https://mgaleg.maryland.gov/cmte_testimony/2021/wam/1kSgs5NVJrAKVBumCUWebeFgFQgHT__P9.pdf

2021 MSPA HB 700 Senate Side.pdf

Uploaded by: Faulkner, Rachael

Position: FAV



Delegate Paul G. Pinsky, Chair
Delegate Cheryl C. Kagan, Vice Chair
Education, Health, and Environmental Affairs Committee
2 West, Miller Senate Office Building
Annapolis, MD 21401

Bill: House Bill 700 – Education - Disruption of School Activities - Repeal of Prohibition

Position: Support as Amended

Dear Chairman Pinsky, Vice Chair Kagan, and Members of the Committee:

I am writing on behalf of the Maryland School Psychologists' Association (MSPA), a professional organization representing about 500 school psychologists in Maryland. We advocate for the social-emotional, behavioral, and academic wellbeing of students and families across the state.

Many students who exhibit disruptive behavior in school are in fact communicating their mental and emotional distress in the only way they know how. HB 700 would remove school disruption from the short list of criminal offenses that are specific to and typically enforced in schools. It is unconscionable that these children can be arrested and charged with a criminal offense especially as these arrests disproportionately affect students of color.

HB 700 will help us to break the “school-to-prison” pipeline which derails the lives of too many Maryland students. Schools need better and more humane, student-centered discipline procedures, integrated with comprehensive systems of emotional and behavioral support for these students with such needs. School psychologists stand ready to help our schools to develop and to grow these supports, and to provide the mental health supports many of the students need.

For these reasons, we urge a favorable report on HB 700. If we can provide any additional information or be of any assistance, please contact us at legislative@mspaonline.org or Rachael Faulkner at rfaulkner@policypartners.net or (410) 693-4000.

Respectfully submitted,

Kyle Potter, Ph.D., NCSP
Chair, Legislative Committee
Maryland School Psychologists' Association

Letter of Support - Montgomery County.pdf

Uploaded by: Gross, Michal

Position: FAV



PAUL DEWOLFE
PUBLIC DEFENDER

BECKY FELDMAN
DEPUTY PUBLIC DEFENDER

ALLEN E. WOLF
DISTRICT PUBLIC DEFENDER FOR DISTRICT 6

Senator Paul Pinsky
Education, Health and Environmental Affairs Committee
Maryland Senate

Dear Senator Pinsky and the Committee:

I am writing in support of HB700. As an Assistant Public Defender specializing in juvenile cases, a parent and a graduate of public schools in Maryland, I have vast experience with our educational system. When I was in fifth grade at Bethesda Elementary School, my teacher explained that she was supposed to teach the class about the dangers of smoking, but she was a smoker so chose not to share the “healthy hogwash” with the class. Perhaps foreshadowing my career as a lawyer, I raised my hand and politely asked if she would consider quitting due to the high risk of lung cancer and emphysema caused by smoking. She then screamed at me and ordered me to sit in the hallway for the rest of the class. She also called my parents and demanded that they come to the school for an urgent meeting about my behavior.

If I were a student today, I may have been charged with “Disturbing School Activities.” I have represented children as young as 10-years-old in Juvenile Court in Montgomery County who were charged with “Disturbing School Activities” for arguing with teachers, pulling fire alarms, horseplay in the hallways and other typical adolescent behavior. Fortunately, we have so many better and more effective options for addressing this behavior in schools. Having a juvenile case often means that the child misses school, negatively impacting academic performance. Also, parents jeopardize their employment because they have to miss work to attend various hearings. Due to the case, the family feels less engaged in the school community. Finally, even a relatively minor charge like “Disturbing School Activities” may result in the child entering the school to prison pipeline.

Thank you for your consideration. I ask you for a favorable vote on this important legislation.

Sincerely,
Stephanie Joseph
Assistant Public Defender
Montgomery County, Maryland
301-887-3575

OPD Testimony for HB 700 - Senate.pdf

Uploaded by: Gross, Michal

Position: FAV



POSITION ON PROPOSED LEGISLATION

BILL: HB 700 - Education – Disruption of School Activities – Repeal of Prohibition
POSITION: Favorable
DATE: March 26, 2021

The Maryland Office of the Public Defender respectfully requests that the Committee issue a favorable report on House Bill 700.

As public defenders, we represent youth charged in juvenile and adult court, many for incidents that occurred at school. Too often, those arrests are the result of normal adolescent behavior that is disparately criminalized, directly funneling Black students and children with disabilities into the school to prison pipeline. According to the Maryland Commission on the School-to-Prison Pipeline and Restorative Practices' December 2018 report, "[t]he most common arrests in school are simple assault...and the vague category of 'disorderly conduct,' which could be a temper tantrum, cursing, or talking back to a teacher. In other words, '**children develop arrest records for acting like children.**'"¹ These are the traumatic arrests that HB 700 would prevent.

Maryland Education Code §26-101, which HB 700 would amend, is an unnecessary and overbroad statute that criminalizes children's behavior at school. The provisions of §26-101 that cover actual disruptive or threatening behavior are already criminalized by Maryland's Criminal Code; the remainder consists of vague language covering a range of developmentally appropriate behavior that is disparately applied to Black students and children with disabilities. In 2020, 82% of those referred to the Department of Juvenile Services for an intake hearing for Disturbing School Activities or Personnel were youth of color.² The disparate treatment of non-white children begins with school-based arrests based on §26-101: despite representing only 33% of students enrolled in Maryland's public schools,³ 57% of students arrested for disruption in the 2018-2019 school year were Black.⁴ Similarly, 69% of children arrested for making threats to adults were non-white students, as were 55% of those arrested for threats to other students.⁵ Children with disabilities are also disproportionately charged: although data as to specific charges

¹ Maryland Commission on the School-to-Prison Pipeline and Restorative Practices, *Final Report and Collaborative Action Plan* at 26, available at <http://marylandpublicschools.org/stateboard/Documents/AAEEBB/CommissionSchoolPrisonPipeline.pdf>.

² Maryland Department of Juvenile Services, *Data Resource Guide Fiscal Year 2020* at 252, available at https://djs.maryland.gov/Documents/DRG/Data_Resource_Guide_FY2020.pdf.

³ Maryland State Department of Education, *Maryland Public School Enrollment by Race/Ethnicity and Gender and Number of Schools September 30, 2019*, available at <http://www.marylandpublicschools.org/about/Documents/DCAA/SSP/20192020Student/2020EnrollRelease.pdf>.

⁴ Maryland State Department of Education, *Maryland Public Schools Arrest Data: School Year 2018-19*, available at <http://marylandpublicschools.org/stateboard/Documents/2020/0623/MarylandPublicSchoolsArrestData20182019.pdf>.

⁵ *Id.*

For further information please contact Michal Gross and Michele Hall, Assistant Public Defenders and subject matter experts, at michal.gross@maryland.gov and michele.hall@maryland.gov or Krystal Williams, Director, Government Relations Division, at krystal.williams@maryland.gov or by phone at 443-908-0241.

is not available, students with Individual Education Programs (IEP), one of two special education classifications, are only 12% of the student population in Maryland yet they receive 23% of school-based arrests.⁶

§26-101 is also disparately applied across the state, thus subjecting children attending one school to arrest for normal adolescent behavior while those attending schools in a neighboring district can continue to behave like children. This disparity exists even when comparing students attending schools in similarly situated communities across the state. In 2020, while 51 students were arrested in Montgomery schools for Disturbing School Activities or Personnel, 217 students were arrested in Baltimore County schools; in Western Maryland, 104 were arrested on that charge in Washington County compared to 9 in Garrett County; on the Eastern Shore, 198 were charged for Disturbing School Activities or Personnel in Wicomico while 9 were arrested in Talbot; and in Southern Maryland, 86 students were arrested in Saint Mary's compared to 39 in Calvert.⁷

These disparities are all the more disturbing when looking at the specific behavior charged as a violation of §26-101. Take, for example, DJ, a Black special education student in Charles County. DJ was charged with Disturbing School Operations and Disorderly Conduct for roaming the school halls instead of remaining in the office. The disturbance: an art teacher closed the door to the classroom and yearbook staff stepped aside when DJ passed, all while being followed by the school police officer and principal. The disorderly conduct: DJ recording on his phone and using profanity. The police officer used force, pushing DJ, then a 9th grade student, into the lockers and knocking him to the ground because the officer said DJ didn't give him one of his wrists. The officer then paraded DJ through the school in handcuffs. Although the Department of Juvenile Services closed the case at intake because the behavior had been managed through the school disciplinary process, the school police officer appealed that decision and DJ was forced to endure the process of juvenile court.

While the language contained in §26-101 may not seem nefarious, the application of §26-101 to students such as DJ certainly is. School is a place where children are sent to learn. An important part of that learning – especially for students with disabilities – is making mistakes and learning from those experiences. While the behavior of a student may be disruptive, and children will say things while frustrated, these are all normal adolescent behavior. We urge the committee to end this punitive practice of criminalizing kids for being kids.

* * *

For these reasons, the Maryland Office of the Public Defender respectfully urges a favorable report on House Bill 700.

⁶ *Id.*

⁷ See Data Resource Guide, *supra* note 2

OPD Testimony for HB 700 - Southern MD Senate.pdf

Uploaded by: Gross, Michal

Position: FAV



POSITION ON PROPOSED LEGISLATION

BILL: HB 700 - Education – Disruption of School Activities – Repeal of Prohibition

POSITION: Favorable

DATE: March 25, 2021

As a public defender primarily representing youth charged in juvenile and adult court in Southern Maryland, I too often see arrests for normal adolescent behavior. The criminalization of childhood is increasingly apparent when looking at school-based arrests under Maryland Education Code §26-101. I have seen youth charged under §26-101 for ordinary childhood behavior such as a mutual fight between students, middle school kids throwing food at each other, and playground disagreements that ended not with fists but with words.

§26-101 is disparately applied to Black students in Southern Maryland, thus funneling them directly into the school to prison pipeline. In Charles County, Black youth bear the brunt of those arrests: 88% of children arrested for disruption at school were Black,¹ even though Black children are only 55% of enrolled students in Charles County schools.² This disparity isn't unique to Charles County: in Saint Mary's County, 71% of the children arrested for disruption were Black even though they are only 18% of enrolled students.³

§26-101 is also used to criminalize the behavior of children with disabilities. I have seen students charged with Disruption of School Operations for behavior anticipated by their special education plans. In many of those situations, although the school disciplinary process followed the process for children with disabilities and responded in accordance with the child's needs, the school police officer still charged the child, forcing them to appear for an intake hearing at the Department of Juvenile Services or in juvenile court for behavior that was deemed to be a manifestation of their disability.

I have seen too many children dragged through the juvenile court process for behavior that is age-appropriate and has already been addressed through the school disciplinary process. I therefore urge the committee to issue a favorable report on House Bill 700.

Michal Gross, Assistant Public Defender

¹ Maryland State Department of Education, *Maryland Public Schools Arrest Data: School Year 2018-19*, available at <http://marylandpublicschools.org/stateboard/Documents/2020/0623/MarylandPublicSchoolsArrestData20182019.pdf>

² Maryland State Department of Education, *Maryland Public School Enrollment by Race/Ethnicity and Gender and Number of Schools September 30, 2019*, available at <http://www.marylandpublicschools.org/about/Documents/DCAA/SSP/20192020Student/2020EnrollRelease.pdf>

³ *Id.*

For further information please contact Michal Gross, Assistant Public Defender and subject matter expert, at michal.gross@maryland.gov or Krystal Williams, Director, Government Relations Division, at krystal.williams@maryland.gov or by phone at 443-908-0241.

OPD Written Statement for HB 700 - Anne Arundel Co

Uploaded by: Gross, Michal

Position: FAV



POSITION ON PROPOSED LEGISLATION

BILL: HB 700 - Education – Disruption of School Activities – Repeal of Prohibition

POSITION: Favorable

DATE: March 26, 2021

As a public defender representing children charged in juvenile court in Anne Arundel County, I have repeatedly witnessed the overwhelming number of juvenile citations and arrests that arise from developmentally normal adolescent behavior. The underlying incidents leading to school-based citations and arrests pursuant to Maryland Education Code § 26-101 are a striking example of the criminalization of childhood behaviors.

In my experience over the past eight years, I have seen youth - some as young as elementary and middle school aged - charged under § 26-101 for behaviors such as throwing a fruit snack at another student, attempting to toss a water bottle like a basketball into a trash can, engaging in a mutual fight with another student resulting in no injuries, refusing to leave an interior hallway because of rainy weather outside, and verbal disagreements between two students where no physical contact took place.

In addition to criminalizing adolescence, § 26-101 is disparately utilized against Black students, directly funneling these youth into the school to prison pipeline. In Anne Arundel County, despite Black children comprising only 21.1%¹ of the total number of enrolled students, 70%² of the children cited for disruption at school during the 2018-2019 school year were Black.

Further, § 26-101 also criminalizes the behavior of children with disabilities. School resource officers are citing and arresting youth with disabilities, despite the existence of special education plans that set forth recommended interventions and responses to anticipated behaviors. I have witnessed numerous instances where a student's behavior has been deemed a manifestation of his or her disability, yet charges under § 26-101 are still initiated and pursued.

Schools are equipped to take disciplinary action to address age-appropriate behaviors that occur in an educational setting. § 26-101 is unnecessary, overly broad, disparately applied, and perpetuates the lifelong damage and trauma caused by involvement in the

¹ Maryland State Department of Education, *Maryland Public School Enrollment by Race/Ethnicity and Gender and Number of Schools September 30, 2019*, available at <http://www.marylandpublicschools.org/about/Documents/DCAA/SSP/20192020Student/2020EnrollRelease.pdf>

² Maryland State Department of Education, *Maryland Public Schools Arrest Data: School Year 2018-19*, available at <http://marylandpublicschools.org/stateboard/Documents/2020/0623/MarylandPublicSchoolsArrestData20182019.pdf>

For further information please contact Michal Gross, Assistant Public Defender and subject matter expert, at michal.gross@maryland.gov or Krystal Williams, Director, Government Relations Division, at krystal.williams@maryland.gov or by phone at 443-908-0241.

school to prison pipeline. Accordingly, I urge the committee to issue a favorable report on House Bill 700.

M. Lucy Portera, Assistant Public Defender

OPD Written Testimony for HB 700 - Baltimore City.

Uploaded by: Gross, Michal

Position: FAV



POSITION ON PROPOSED LEGISLATION

BILL: HB 700 - Education – Disruption of School Activities – Repeal of Prohibition

POSITION: Favorable

DATE: February 8, 2021

For five years, as a public defender primarily representing children charged in juvenile and adult court in Baltimore City, so many children were charged with disturbing school activities my entire job was focused on school-based arrests. Too often, I saw arrests for normal adolescent behavior. The criminalization of childhood is increasingly apparent when looking at school-based arrests under Maryland Education Code §26-101. I have seen youth charged under §26-101 for ordinary childhood behavior such as a fighting over a Pokémon card, throwing rocks at recess, mutual fight between two students, middle school kids throwing food at each other, and playground disagreements that ended not with fists but with words.

§26-101 is disparately applied to Black students in Baltimore City, thus funneling them directly into the school to prison pipeline. In Baltimore City, Black youth bear the brunt of those arrests: 86% of children arrested for disruption at school were Black,¹ even though Black children are only 75% of enrolled students in Baltimore City schools.² This disparity isn't unique to Baltimore City: in Baltimore County, 63% of the children arrested for disruption were Black even though they are only 39% of enrolled students.³

§26-101 is also used to criminalize the behavior of children with disabilities. I have represented dozens of students charged with Disruption of School Operations for behavior anticipated by their special education plans. In many of those situations, although the school disciplinary process followed the process for children with disabilities and responded in accordance with the child's needs, the school police officer still charged the child, forcing them to appear for an intake hearing at the Department of Juvenile Services or in juvenile court for behavior that was deemed to be a manifestation of their disability.

¹ Maryland State Department of Education, *Maryland Public Schools Arrest Data: School Year 2018-19*, available at <http://marylandpublicschools.org/stateboard/Documents/2020/0623/MarylandPublicSchoolsArrestData20182019.pdf>

² Maryland State Department of Education, *Maryland Public School Enrollment by Race/Ethnicity and Gender and Number of Schools September 30, 2019*, available at <http://www.marylandpublicschools.org/about/Documents/DCAA/SSP/20192020Student/2020EnrollRelease.pdf>

³ *Id.*

For further information please contact Michal Gross, Assistant Public Defender and subject matter expert, at michal.gross@maryland.gov or Krystal Williams, Director, Government Relations Division, at krystal.williams@maryland.gov or by phone at 443-908-0241.

I have seen too many children dragged through the juvenile court process for behavior that is age-appropriate and has already been addressed through the school disciplinary process. I therefore urged the committee to issue a favorable report on House Bill 700.

OPD Written Testimony for HB 700 - Baltimore Count

Uploaded by: Gross, Michal

Position: FAV



POSITION ON PROPOSED LEGISLATION

BILL: HB 700 - Education – Disruption of School Activities – Repeal of Prohibition

POSITION: Favorable

DATE: February 8, 2021

My name is Michelle Kim, and I am a juvenile public defender representing children in Baltimore County. I see firsthand the fear, distress, and embarrassment experienced by children and their families when students (including elementary school students) are arrested and hauled into court under Maryland Education Code §26-101 for childish behavior that had traditionally been handled effectively at school and home. This statute criminalizes what it terms broadly ‘disturbances’--the kind of ordinary behavior exhibited by children and teens such as mutual student fights, roaming the hallways, and arguing with teachers--that used to be managed through school sanctions, and now is funneled to the criminal courts system with its burdensome costs and collateral consequences.

The use of §26-101 to criminalize our students is a major problem in Baltimore County and is used disproportionately against students of color and disabled children. In the 2018-2019 school year, ‘disruption’ (and its related offense ‘disrespect’) was the number one offense for which children were arrested in Baltimore County. The statute targets Black children: 63% of children arrested for disruption at school were Black,¹ even though Black children are only 39.5% of students in Baltimore County schools.² Even more blatantly, 100% of students arrested for ‘disrespect’ (already a problematic determination of itself) were Black children.¹

At its most damaging, Maryland Education Code §26-101 targets and stigmatizes predominantly Black children for ordinary adolescent behavior that has been addressed already through school and family discipline, and steers them into the criminal court system with all its attendant harms. We can do better for the children of Maryland by repealing this unnecessary and detrimental statute. I respectfully urge the committee to issue a favorable report on House Bill 700.

¹ Maryland State Department of Education, *Maryland Public Schools Arrest Data: School Year 2018-19*, available at <http://marylandpublicschools.org/stateboard/Documents/2020/0623/MarylandPublicSchoolsArrestData20182019.pdf>

² Maryland State Department of Education, *Maryland Public School Enrollment by Race/Ethnicity and Gender and Number of Schools September 30, 2019*, available at <http://www.marylandpublicschools.org/about/Documents/DCAA/SSP/20192020Student/2020EnrollRelease.pdf>

For further information please contact Michal Gross, Assistant Public Defender and subject matter expert, at michal.gross@maryland.gov or Krystal Williams, Director, Government Relations Division, at krystal.williams@maryland.gov or by phone at 443-908-0241.

WDC Testimony_HB0700_FAV_FINAL_FINAL.pdf

Uploaded by: Koravos, JoAnne

Position: FAV



MONTGOMERY COUNTY, MARYLAND WOMEN'S DEMOCRATIC CLUB

P.O. Box 34047, Bethesda, MD 20827

www.womensdemocraticclub.org

House Bill 700 – Education – Crimes on School Grounds -- Exemptions Education, Health, and Environmental Affairs – March 30, 2021 SUPPORT

Thank you for this opportunity to submit written testimony concerning an important priority of the **Montgomery County Women's Democratic Club (WDC)** for the 2021 legislative session. WDC is one of the largest and most active Democratic Clubs in our County with hundreds of politically active women and men, including many elected officials.

WDC urges the passage of HB 700 as a first step toward de-criminalization of school misbehavior. HB 700 would amend §26-101 of the Maryland Education Code to eliminate the authority being used by school resource officers (SROs) and other law enforcement to charge students with misdemeanors for school behavior, such as disruption, that is developmentally typical of adolescents and that should be treated as a disciplinary matter by school officials, not a crime. For example, in school year 2018-2019, 260 students were arrested for disruption in Maryland schools, presumably under §26-101. Over one-third were middle or elementary school students. In school year 2017-2018, 447 students were arrested for disruption, of which 138 were middle and elementary students.¹ We believe arresting students for this kind of misconduct is at odds with Maryland education policy and research on adolescent behavior and is extremely harmful to students.

What we find to be particularly troubling are the alarmingly high arrest rates for Black students. For example, in school year 2018-2019, Black students accounted for 57 percent of the school-based arrests for disruption in Maryland, but only 34 percent of the enrollment². The unequal disciplinary treatment between Black students and White students cannot be explained away by claims that there are differences in behavior among these groups. A report by the Maryland Commission on the School-to-Prison Pipeline found that differences in discipline are likely to result from inconsistent adult responses to various behaviors. There is a real concern that bias, often unconscious, is coming into play, especially where the adults—teachers, school officials, and police—are making a subjective determination.³

¹Maryland State Department of Education (MSDE), Maryland Public Schools Arrest Data, School Year 2018-2019, Maryland Public Schools Arrest Data, School Year 2017-2018,

<http://marylandpublicschools.org/about/Pages/DSFSS/SSSP/StudentArrest/index.aspx>

²MSDE, Maryland Public School Enrollment by Race/Ethnicity and Gender and Number of Schools, September 30, 2018.

³Maryland Commission on the School-to-Prison Pipeline, Final Report and Collaborative Action Plan, Report to the Maryland Governor and General Assembly pursuant to House Bill 1287(2017) (December 20, 2018): 29-30,

<https://msa.maryland.gov/megafile/msa/speccol/sc5300/sc5339/000113/023600/023694/20190078e.pdf>; See also Adai Tefera, Genevieve Siegel-Hawley, and Rachel Levy, "Why do racial disparities in school discipline exist? The role of policies, processes, people, and places," Richmond, VA. Metropolitan Educational Research Consortium (2017): 5,

https://scholarscompass.vcu.edu/cgi/viewcontent.cgi?article=1103&context=merc_pubs; Cheryl Staats, Implicit Racial Bias and School Discipline Disparities (May 2014) Kirwan Institute Special Report,

<http://www.racialequityresourceguide.org/resource/implicit-bias-and-school-discipline-disparities>.



MONTGOMERY COUNTY, MARYLAND WOMEN'S DEMOCRATIC CLUB

P.O. Box 34047, Bethesda, MD 20827

www.womensdemocraticclub.org

HB 700 will help address this unacceptable inequity in the administration of discipline and the criminal orientation to discipline. One unintended effect of the deployment of SROs in Maryland schools has been the arrest of students for misbehavior that should be addressed by school officials as a disciplinary matter under the school's student code of conduct. The presence of SROs in schools can increase the likelihood that school officials will turn to them to intervene in disciplinary incidents. When an SRO is asked to assist, the officer has discretion in determining whether to make an arrest and is more likely to see misbehavior typical of adolescents from a law enforcement perspective rather than from a developmental perspective or as related to a student's disability.⁴ What is problematic is the overlap between a school's code of conduct and the criminal code. The result is arrests for minor infractions that should have been treated as student code of conduct violations and not criminalized.

School-based arrests threaten a student's future success. The harmful effects of a single arrest cannot be overstated. A school-based arrest disrupts the schooling process and the student's social bonds in a way that can jeopardize educational attainment. Like suspensions, arrests can contribute to student disengagement and alienation, resentment, and distrust. An arrest can generate a negative institutional response from teachers and other school officials. Arrests in our schools are typically accompanied by both suspensions and referrals to the Department of Juvenile Services. Many studies have found that students who are suspended are at a significantly greater risk of poor academic performance, dropping out, and having subsequent behavioral problems. We know that contact with the juvenile justice system substantially increases a student's risk for later involvement in the adult criminal justice system. The risk of irreparable harm due to an arrest and a referral to the Department of Juvenile Services is particularly great for students of color.⁵

⁴ Aaron Kupchik, Research on the Impact of School Policing. ACLU Pennsylvania (August 2020), <https://fisafoundation.org/wp-content/uploads/2020/08/Research-on-School-Policing-by-Aaron-Kupchik-July-2020.pdf>; Emily M. Homer and Benjamin W. Fisher, "Police in schools and student arrest rates across the United States: Examining differences by race, ethnicity, and gender," Journal of School Violence (2019), [Police-in-schools-and-student-arrest-rates-across-the-United-States-Examining-differences-by-race-ethnicity-and-gender.pdf](https://www.researchgate.net/publication/348940150) (researchgate.net); ACLU, Cops and No Counselors. How the Lack of School Mental Health Professionals is Harming Students (2020): 23, <https://www.aclu.org/report/cops-and-no-counselors>; Benjamin W. Fisher and Emily A. Hennessy, "School Resource Officers and Exclusionary Discipline in U.S. High Schools: A Systematic Review and Meta-analysis," Adolescent Research Review 1, 217-233 (2016): 218-220, 229, <https://doi.org/10.1007/s40894-015-0006-8>; Jason P. Nance, "Students, Police, and the School-to-Prison Pipeline," (November 2, 2015). 93 Washington University Law Review 919 (2016), University of Florida Levin College of Law Research Paper No. 15-20: 976-977, <https://ssrn.com/abstract=2577333>; Development Services Group, Inc., "Interactions between Youth and Law Enforcement." Literature review. Washington, D.C.: Office of Juvenile Justice and Delinquency Prevention (2018): 6-7, <file:///C:/Users/Dell/Downloads/826140.pdf>; Amanda Merkwae, "Schooling the Police: Race, Disability, and the Conduct of School Resource Officers," 21 Michigan Journal of Race and Law 147 (2015), <https://repository.law.umich.edu/mjrl/vol21/iss1/6>.
⁵ Elaine Bonner-Tompkins, Leslie Rubin, and Kristen Latham, The School-to-Prison Pipeline in Montgomery County, March 1, 2016, Office of Legislative Oversight, Montgomery County, Maryland: 96-97; <https://www.montgomerycountymd.gov/OLO/Resources/Files/2016%20Reports/School%20to%20Prison%20Pipeline%20wit>



MONTGOMERY COUNTY, MARYLAND
WOMEN'S DEMOCRATIC CLUB

P.O. Box 34047, Bethesda, MD 20827

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Arresting a child for typical adolescent behavior in school is totally at odds with Maryland education policy. Maryland State Department of Education regulations call for a “discipline philosophy based on the goals of fostering, teaching, and acknowledging positive behavior.”⁶ Maryland State education law and guidance reflect the philosophy that discipline needs to promote positive behavior and be restorative, rehabilitative, and educational. For example, in the case of disruption, Maryland discipline guidance suggests talking with a counselor, mentoring, and restorative practices as appropriate disciplinary responses to disruptive behavior, and nothing harsher than a short-term suspension.⁷ Harsh punishment is not seen as advancing Maryland’s education goals.

WDC supports HB 700 because its passage would help to end the harm caused by arresting students for misbehavior in school that should be addressed by school officials as a disciplinary matter. We ask for your support for HB 700 and strongly urge a favorable committee report.

Respectfully,

Diana Conway
President

[h%20CAO%20Response%2020166.pdf](#); Daniel J. Losen, Cheri L. Hodson, Michael A Keith II, Katrina Morrison, and Shakti Belway, “Are We Closing the School Discipline Gap?” UCLA: The Civil Rights Project (2015), <https://escholarship.org/uc/item/2t36g571>; Council of State Governments Justice Center, The School Discipline Consensus Report: Strategies from the Field to Keep Students Engaged in School and Out of the Juvenile Justice System (2014), <https://knowledgecenter.csg.org/kc/content/school-discipline-consensus-report>; Justice Policy Institute, “Education under Arrest: The Case Against Police in Schools” (November, 2011), <http://www.justicepolicy.org/research/3177>, Nance (2015): 924.

⁶Code of Maryland Regulations 13A.08.01.11, <http://www.dsd.state.md.us/comar/comarhtml/13a/13a.08.01.11.htm>

⁷MSDE, Maryland Guidelines for a State Code of Discipline (July 22, 2014):17, http://archives.marylandpublicschools.org/MSDE/divisions/studentschoolsvcs/student_services_alt/docs/MDGuidelinesforStateCodeDiscipline_08072014.pdf

Final signed_Ruth LOS HB 0700.pdf

Uploaded by: Ruth, S

Position: FAV



LEGISLATIVE BLACK CAUCUS OF MARYLAND, INC.

The Maryland House of Delegates, 6 Bladen Street, Room 300, Annapolis, Maryland 21401

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February 23, 2021

Delegate Anne R. Kaiser
Chair, Ways and Means

Delegate Alonzo Washington
Vice Chair, Ways and Means

Dear Chairman Kaiser and Members of the Committee:

The Legislative Black Caucus of Maryland has voted to offer **favorable** support for HB 0700- Education – Disruption of School Activities- Repeal of Prohibition. This bill would repeal the statute that makes "disturbing school activities" a misdemeanor subject to fine of up to \$2500 or incarceration up to 6 months.

The existing law criminalizes normal adolescent behavior and contributes to the school-to-prison pipeline. 82% of students charged for Disturbing School Activities or Personnel in 2020 were BIPOC. The school disturbing statute is duplicative and unnecessary, and if repealed school safety can still be protected with existing criminal statutes.

HB700 would repeal the school disturbing statute, which disproportionately impacts Black students and contributes to the school-to-prison pipeline. Repealing it would reduce the number of Black teens entering the criminal justice system. A 2006 study found that "first-time arrest during high school nearly doubles the odds of high school dropout, while a court appearance nearly quadruples the odds of dropout." So by reducing the number of Black students charged, it will also improve dropout rates. For these reasons, the Legislative Black Caucus of Maryland supports HB 0700.

Respectfully,

Darryl Barnes

Darryl Barnes
Chair, Legislative Black Caucus
of Maryland

Melissa Wells

Melissa Wells
1st Vice Chair, Legislative Black
Caucus of Maryland

Ruth - HB0700 - support - Senate.pdf

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Position: FAV



THE MARYLAND HOUSE OF DELEGATES
ANNAPOLIS, MARYLAND 21401

Sponsor Testimony in Support of HB0700
Education - Crimes on School Grounds – Exemptions

Delegate Sheila Ruth

March 30, 2021

I was shocked to learn that students can be arrested and charged with a misdemeanor for acting up in school in ways that are typical adolescent behavior. Maryland Education Code Section 26-101 makes it a crime to “...willfully disturb or otherwise willfully prevent the orderly conduct of the activities, administration, or classes of any institution of elementary, secondary, or higher education.”

Adolescent brains are still developing, and they lack the impulse control that gives most adults the ability to filter their words and actions. Anyone who’s ever been the parent of a teen knows that defiance and anger are part of the territory. That doesn’t mean that we should accept such behavior. Part of adolescence is learning impulse control and appropriate behavior. But the criminal justice system is not the answer.

The penalty for the “crime” of acting like a teen could be a fine of up to \$2500 or 6 months in prison. But even cases where these penalties are not applied can still have serious consequences for the young person. [A 2006 study](#) found that “first-time arrest during high school nearly doubles the odds of high school dropout, while a court appearance nearly quadruples the odds of dropout.” The consequences of charging a teen for acting like a teen are potentially long-term and devastating, and play a role in the school-to-prison pipeline.

One vivid memory brought home to me the seriousness of this law. One day when I was in middle school, I borrowed my brother’s softball glove to take to school for phys-ed. I promised him I would take care of it and bring it home so that he would have it on the weekend. On Friday afternoon, I was on the school bus when I realized I’d left his glove in my locker. I asked the bus driver if I could go back and get it, and she said that since the bus was about to leave, I couldn’t. I panicked, knowing that if I didn’t get it, my brother wouldn’t have it on the weekend and I would have broken my promise. So I started screaming and cursing at the bus driver. I remember someone telling me afterwards that the bus driver felt threatened, but I hadn’t meant to threaten her and I wouldn’t have done anything to her. I was just panicking at the thought of letting my brother down. I know there were consequences, but I don’t remember what they were. However,

the consequences did not include criminal charges. The truth is, even if this law had been enforced when I was a student, as a white child I probably wouldn't have been charged.

The consequences of this law impact most heavily on Black, Brown, and disabled children. According to 2020 data, 82% of children charged with disturbing school activities or personnel were Black children and children of color. Because of implicit bias, people will often perceive behavior of Black children as more threatening compared to white children of the same age. Studies have shown that white adults tend to overestimate the age of Black children, leading to unrealistic behavioral expectations.

The disturbing school statute also disproportionately impacts disabled children. Although we don't have statistics on numbers of disabled students charged under this specific law, children with disabilities more generally represent 23% of school arrests, but only 12% of the student population. Students with developmental disabilities may, due to their disabilities, act out in ways that might be wrongly perceived as threatening.

This law wasn't even originally intended for the way it's being used. The school disturbance laws were passed around the country in the late 1960s targeted at Black student-led protests against segregation. It wasn't until the late 1990s – around the same time that police started being embedded in schools – that it started being applied to internal school discipline issues.

As originally filed, HB700 would have repealed this law. However, educational institutions were concerned that a full repeal would open a door for individuals not associated with the institution to come onto campus and put students or teachers at risk, so we amended it to keep the law in place, but protect students from being charged.

HB700 has the support of the Legislative Black Caucus and the Latino Caucus.

How many lives have been shattered under the school disturbing statute? Black Lives Matter is not just about police killings; it's essential that we change all the ways that our society and our law devalues and destroys Black lives. Let's change this unjust law before any more children's lives are destroyed. I ask for a favorable report on HB700.

HB 700 (Senate) - CRSD Written Testimony in Suppor

Uploaded by: Tian, Jiexi

Position: FAV

MARYLAND COALITION TO REFORM SCHOOL DISCIPLINE

EDUCATION, HEALTH, AND ENVIRONMENTAL AFFAIRS COMMITTEE HOUSE BILL 700: EDUCATION – CRIMES ON SCHOOL GROUNDS – EXEMPTIONS

March 26, 2021

POSITION: SUPPORT

The Maryland Coalition to Reform School Discipline (“CRSD”) brings together advocates, service providers, and community members dedicated to transforming school discipline practices within Maryland’s public-school systems. We are committed to making discipline responsive to students’ behavioral needs, fair, appropriate to the infraction, and designed to keep youth on track to graduate. **CRSD strongly supports House Bill 700**, which, as amended, would exempt students from the offenses set forth in Maryland Education Code § 26-101. At present, section 26-101 is an overly broad statute that criminalizes behaviors and acts that are criminalized in various provisions of the Maryland Criminal Code, sets forth subjective offenses that disproportionately impacts Black students and students with disabilities, and criminalizes normal adolescent development.

Maryland Education Code § 26-101 is overly broad because it criminalizes a wide range of student behaviors, many of which are based on the subjective interpretations of school officials and school police officers. For instance, the statute criminalizes “willful disturbance” of schools. The notion of “disturbance” is exceedingly broad, vague, and subjective. Any number of communications and behaviors – such as words, tone of voice, attitudes, refusals, or defiance – can be interpreted as “willful disturbance.” Thus, a child who is misunderstood, misinterpreted, or agitated is at-risk of being criminalized.

The same is true of a “threat,” which is also criminalized in section 26-101. As set forth in the statute, what constitutes a threat is often based on subjective interpretations by school officials and school police officers. This is particularly problematic because in the school context a perceived “threat” may not be a threat at all. It can be an expression, word, or action that is consistent with normal adolescent behavior. It can also be that the school official or school police officer, clouded by biases attached to race, gender, intersectionality, and/or disability, perceives a student to present or express a “threat” that may be actually be a moment of frustration, an inability to express a feeling, or something else.

The bottom-line is that any variety of words, non-verbal behaviors, and other expressive conduct (perceived or actual) that fall within this statute have been criminalized. As a result, these are crimes rooted not only in the behavior and actions of children in school, but also in the subjective interpretations of these children by school officials and school police officers.

MARYLAND COALITION TO REFORM SCHOOL DISCIPLINE

These subjective interpretations very much drive and exacerbate the criminalization of Black children and children with disabilities in schools, including in Maryland. In the 2018-19 school year, the number of arrests in Maryland schools for disruption was exceeded by only three other offenses.¹ This same year, over 57% of students arrested in Maryland schools for disruption were Black and more Black girls were arrested for disruption than White males.² In this regard, Maryland is not unique, as “[t]he terms ‘threat,’ ‘harm,’ and ‘disruption’ are subjective terms that are more often applied to the behavior of Black girls.”³ Likewise, “[w]hat is perceived as a threat when committed by Black student is commonly not considered a threat when committed by a White student.”⁴

Moreover, section 26-101 is unnecessary for students because it is duplicative of crimes set out in the Maryland Criminal Code. Indeed, *every* crime in section 26-101 is covered in other criminal statutes. For example, “willful disturbance” is duplicative of disorderly conduct, which, in the school context is also frequently rooted in subjective interpretations, particularly when school resource officers (SROs) are stationed in schools. An often-cited study comparing schools with SROs to schools without SROs found that SROs “dramatically increase the rate of arrests with disorderly conduct charges”⁵ Also, the “threat” and “molest” crimes in section 26-101 are covered in the Maryland Criminal Code. Accordingly, there is no need for this separate statute to apply to students.

In addition to its over-breadth and redundancy, section 26-101 distracts from the urgency of implementing alternatives to criminalization for behaviors, words, needs, and issues that are best addressed by recognizing biases, understanding youth brain development (and behaviors that are consistent with normal adolescent development), and providing supports to students, such as counseling and behavioral health services, that keep them in school and away from the juvenile and criminal legal systems. Therefore, exempting students from section 26-101 is a necessary step to moving away from laws, policies, and practices that have criminalized children – particularly Black children and children with disabilities – in Maryland’s schools, and moving

¹ MARYLAND STATE DEP’T OF EDUC., MARYLAND PUBLIC SCHOOLS ARREST DATA, SCHOOL YEAR 2018-19, 12-13, <http://marylandpublicschools.org/about/Documents/DSFSS/SSSP/StudentArrest/MarylandPublicSchoolsArrestDataSY20182019.pdf>

² *Id.* at 130.

³ THE NAACP LEGAL DEFENSE AND EDUCATIONAL FUND, INC., THURGOOD MARSHALL INSTITUTE, OUR GIRLS, OUR FUTURE: INVESTING IN OPPORTUNITY & REDUCING RELIANCE ON THE CRIMINAL JUSTICE SYSTEM IN MARYLAND 14 (2018), https://www.naacpldf.org/wp-content/uploads/Baltimore_Girls_Report_FINAL_6_26_18.pdf.

⁴ Jennifer Martin & Julia Smith, *Subjective Discipline and the Social Control of Black Girls in Pipeline Schools*, 13 J. URB. LEARNING, TEACHING AND RESEARCH 63, 64 (2017) (citation omitted), <https://files.eric.ed.gov/fulltext/EJ1149866.pdf>

⁵ Matthew T. Theriot, *School Resource Officers and the Criminalization of Student Behavior*, 37 J. CRIM. JUSTICE 280, 285 (2009).

MARYLAND COALITION TO REFORM SCHOOL DISCIPLINE

towards the resources, practices, and focus that support students, better address behaviors, and improve long-term outcomes.

For these reasons, CRSD strongly supports House Bill 700.

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